THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.10193 of 2005

Dated 14-11-2005

Between:

Rukam Bapu.

….Petitioner

and

The Special Deputy Collector, Tribal Welfare, Utnoor, Adilabad District and two others.

….Respondents

THE HON'BLE Ms JUSTICE G. ROHINI

WRIT PETITION No.10193 of 2005

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

This writ petition is filed aggrieved by the order of ejectment dated 29-01-2004 passed by the first respondent under Section 3 (2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation I of 1959 as amended by Regulation I of 1970.

It is alleged in the impugned order that the petitioner, who is a non-tribal is in possession of the land situated in Survey Nos.2, 5, 29 to an extent of 0-60 cents, Ac.6-37 cents and Ac.1.33 cents, respectively, of Routa Sankapelli village, Asifabad Mandal, which is notified as a scheduled area, having pur;chased from a tribal in contravention of the provisions of the Regulation 1 of 1959, and therefore, the petitioner is liable to be ejected and the possession has to be restored to the tribal. It is further alleged that though the petitioner was served with a show-cause notice dated 02-08-1988, he failed to explain the allegations.

The specific case of the petitioner is that the said show-cause notice dated 02-08-1988 was issued only in respect of the land in Survey No.5 with which he is not at all concerned and no show-cause notice was issued in respect of the land in survey Nos.2 and 29. Thus, the petitioner contends the impugned order was passed without affording an opportunity to the petitioner to rebut the allegations made and therefore, it is liable to be set aside on that ground alone.

On the other hand, the learned Government Pleader submits that since against the impugned order dated 29-01-2004, an alternative remedy of appeal is a available before the Agent to the Government, without exhausting the said alternative remedy, the petitioner cannot maintain this writ petition.

Having regard to the facts and circumstances of the case and particularly in view of the disputed questions of fact which require adjudication after going through the relevant records and after hearing both the parties, I find force in the contention of the learned Government Pleader that the petitioner ought to have availed the alternative remedy of appeal as provided under the statute.

In the circumstances, without expressing any opinion on merits, the writ petition is disposed of granting liberty to the petitioner to prefer an appeal against the impugned order dated 29-01-2004 within a period of four weeks from the date of receipt of a copy of this order. If any such appeal is preferred, the same shall be considered and appropriate orders be passed, in accordance with law, taking into consideration all the grounds that may be urged by the petitioner. No costs.

_____

(G. ROHINI, J)

Date:14-11-2005

Note: Issue CC in one week.

B/o

ghn